

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

*Plaintiff,*

v.

MASIMO CORPORATION and  
SOUND UNITED, LLC,

*Defendants.*

C.A. No. 22-1377-MN-JLH

C.A. No. 22-1378-MN-JLH

MASIMO CORPORATION, CERCACOR  
LABORATORIES, INC.,

*Counter-Claimants,*

v.

APPLE INC.,

*Counter-Defendant.*

**JOINT MOTION TO AMEND THE CASE SCHEDULE**

Plaintiff and counter-defendant Apple Inc. (“Apple”), defendant and counter-claimant Masimo Corporation (“Masimo”), defendant Sound United, LLC (“Sound United”), and counter-claimant Cercacor Laboratories, Inc. (“Cercacor”) (collectively, the “parties,” and individually, each a “party”) respectfully submit this joint motion to modify certain dates of the Scheduling Orders entered by the Court on May 25, 2023 [D.I. 103 (-1377) & D.I. 92 (-1378)].

There is good cause for the requested modification of the Scheduling Order because the modification will allow the parties to complete ESI productions prior to the close of fact discovery and to sequence depositions such that, for appropriate witnesses, the deposition may follow completion of the relevant ESI production. Given the parties’ need to extend the deadline for

completing fact discovery, the parties further require a commensurate extension of the remaining case deadlines. The parties have endeavored to propose limited extensions to try to minimize the impact on the current case schedule.

Accordingly, the parties jointly and respectfully request that the Court grant this motion and amend the Scheduling Orders [D.I. 103 (-1377) & D.I. 92 (-1378)] to reflect the below proposed dates:

| EVENT   | Current Deadline        | New Deadline              |
|---|-------------------------|---------------------------|
| Parties to identify 15 opposing witnesses they can depose before October 19, 2023   | N/A                     | Sept. 19, 2023            |
| Deadline for the completion of all email production (¶8(b))   | N/A                     | Oct. 5, 2023              |
| Parties to depose witnesses identified on September 19, 2023 (subject to witness availability)  | N/A                     | Oct. 19, 2023             |
| Deadline for the close of fact discovery (¶8(a))  | Sept. 21, 2023          | Nov. 9, 2023              |
| Deadline for opening expert reports for each party that bears the initial burden of proof (¶8(f)(i))  | Oct. 4, 2023            | Nov. 22, 2023             |
| Deadline for rebuttal expert reports (¶8(f)(i))   | Oct. 24, 2023           | Dec. 15, 2023             |
| Deadline for reply expert reports (¶8(f)(i))  | Nov. 6, 2023            | Jan. 5, 2023              |
| Interim Status Report (¶15)   | Nov. 9, 2023            | Jan. 12, 2023             |
| Deadline for the completion of expert discovery (¶8(f)(iv))   | Nov. 17, 2023           | Jan. 30, 2024             |
| Deadline for the parties to file all case dispositive and <i>Daubert</i> motions, as well as an opening brief, statement of facts, and affidavits, if any (¶16) | Nov. 22, 2023           | Feb. 5, 2024              |
| Deadline for the parties to oppose case dispositive and <i>Daubert</i> motions (¶16)  | Dec. 8, 2023            | Feb. 21, 2024             |
| Deadline for the parties to reply to case dispositive and <i>Daubert</i> motions (¶16)  | Dec. 15, 2023           | Feb. 28, 2024             |
| Deadline for parties to file joint letter (no longer than six pages single-spaced)  | 10 days before Jan. CMC | 10 days prior to Mar. CMC |
| Case Management Conference  | Jan. __, 2024           | Mar. [ ], 2024            |

| EVENT   | Current Deadline                    | New Deadline                        |
|---|-------------------------------------|-------------------------------------|
| Deadline to serve a draft pretrial order (§19; L.R. 16.3(d)(1))                                 | TBD                                 | TBD                                 |
| Deadline for parties to serve motions <i>in limine</i> (§18)                                    | TBD                                 | TBD                                 |
| Deadline for parties to serve oppositions to motions <i>in limine</i> (§18)                     | TBD                                 | TBD                                 |
| Deadline for parties to serve replies to motions in limine (§18)                                | TBD                                 | TBD                                 |
| Deadline to serve response to draft pretrial order (§19; L.R. 16.3(d)(1))                       | TBD                                 | TBD                                 |
| Deadline for parties to file joint pretrial order (§18)   | 7 days prior to Pretrial Conference | 7 days prior to Pretrial Conference |
| Deadline for the parties to file proposed jury instructions, voir dire, and verdict forms (§20) | 7 days prior to Pretrial Conference | 7 days prior to Pretrial Conference |
| Pretrial Conference (§20)   | TBD                                 | TBD                                 |
| Trial (§21)   | TBD                                 | TBD                                 |

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Dated: September 13, 2023

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Masimo Corporation, Defendant Sound  
United, LLC, and Counter-Claimant Cercacor  
Laboratories, Inc.*

IT IS SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2023.

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The Honorable Jennifer L. Hall